

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 396 of 1984

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

TELEQUIP SERVICES LTD.

Versus

COMMISSIONER OF INCOME TAX

Appearance:

MR KC PATEL for Petitioner

MR AKIL QURESHI for MR MANISH R BHATT for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 29/08/2000

ORAL JUDGEMENT (per D.M. Dharmadhikari, C.J.)

At the instance of the assessee, the following questions of law have been referred to us for answer under sec. 256(1) of the Income-tax Act, 1961.

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in disallowing the gratuity liability of Rs. 41,391/claimed by the assessee u/s 28 of u/s 37 of the Act?

2 Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the lower authorities were justified in disallowing sum of Rs. 50,740/- incurred by the assessee as Dealers Aid u/s 37(3A) of the I.T. Act, 1961?

3. Whether, on correct construction of the relevant circular and the judgment of the High Court of Gujarat in Patel Bros. (106 ITR 424), the Tribunal could have held that the said expenditure was not hit by the expression "advertisement, publicity and sales promotion" especially in view of the samples exhibited by the assessee before the Tribunal?"

No one appears on behalf of the assessee. Learned counsel Shri K.C. Patel has submitted that he has been instructed to withdraw from the case. He is therefore granted leave of this Court to withdraw from the matter.

The learned counsel appearing for the department points out that question No. 1 on disallowance of gratuity liability under sec. 28 or sec. 37 of the Act has been answered against the assessee in the case of Navsari Cotton and Silk Mills Ltd. v. CIT reported in (1993) 202 ITR 111. It was relied by this Court in the case of Decom Marketing Pvt. Ltd. v. CIT, in I.T.R. No. 266 of 1984 decided on 27.6.2000. Question No. 1 is, therefore, answered against the assessee and in favour of the revenue.

So far as the other two questions are concerned, since the assessee does not appear to be interested and, therefore, has not appeared or engaged any advocate, we

leave the questions unanswered.

The Reference stands disposed of. There shall be no order as to costs.

(D.M. Dharmadhikari, C.J.)

(A.R. Dave, J.)
(hn)